

**REMARKS/ARGUMENTS**

Upon entry of this amendment, which amends claims 1 and 3 and adds new claims 17-36, claims 1-36 will be pending. In the Office Action, the specification stands objected to for not disclosing application and/or patent numbers for cross-references to related applications; the drawings stand objected to under 37 C.F.R. 1.83(a); claims 1-2, 12-13 and 16 stand rejected under 35 U.S.C. §102(b) as being anticipated by Rohner (U.S. Patent No. 5,680,325, hereinafter "Rohner"); claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Rohner in view of Wetzel (U.S. Patent No. 6,388,990, hereinafter "Wetzel"); and claims 4-11 and 14-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rohner in view of Datta et al. (U.S. Patent No. 6,209,033, hereinafter "Datta"). Applicants respectfully request reconsideration of the claims in view of the amendments above and remarks below.

**Objections to the Specification**

The specification was objected to for not disclosing application and/or patent numbers for cross-references to related applications. In response, applicants have added the cross-references for the related applications.

The specification is also objected to as failing to provide proper antecedent basis for the claimed subject matter. In response, applicants have amended claim 3 to read "Very high data rate DSL".

The specification is again objected to for failing to provide proper antecedent bases for the claimed subject matter. The rejection stated that, in claim 14, "data only slots" are not defined in the specification. Applicant submits that data only slots are defined in the specification at least on page 17, lines 25-35.

**Objections to the Drawings**

The drawings are objected to under 37 C.F.R. 1.83(a). The rejection states that the drawings must show every feature of the invention specified in the claims. Therefore, the rejection states the service area identifier, determining a number of defective video/data ports, determining a number of data only slots, checking the network element database to determine if

the identified equipment telephone usage is at a maximum, and checking the identified equipment has spare video/data capacity must be shown or cancelled from the claims.

Applicants have amended Fig. 7, step S700, to recite "request for capacity check received, the request including a service area identifier". Therefore, the service area identifier is shown in the figures. Applicants submit that the steps of determining the number of defective video/data ports, determining a number of data-only slots, and checking if the identified equipment has spare visual/data capacity is shown at least in step S708 of Fig. 7, which recites "calculate spare video/data port capacity". These steps may be included in this step and accordingly are shown in the figures. Also, the step of checking the network element database to determine if the identified equipment telephone usage is at a maximum is shown at least in step S706 of Fig. 7.

The drawings are also objected to because the decision boxes in Fig. 8 do not show the associated decisions with each path taken. Applicants have amended claim 8 to include the associated decisions with each path taken.

#### Claims 1, 16

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by Rohner. Applicants submit that Rohner does not disclose or suggest every element of claim 1, as amended. For example, Rohner fails to disclose or suggest:

receiving a request for spare capacity in the video and data network for a customer requesting a service for the video and data network, wherein the request comprises a service area identifier corresponding to the customer;

identifying equipment to check for spare capacity from the service area identifier, wherein the equipment identified is used to provide the service to the customer on the video and data network;

determining if the identified equipment has spare data and video capacity using information for the identified equipment in the network element inventory; and

if the equipment has spare data and video capacity, calculating spare video and data capacity for the equipment, wherein the spare video and data capacity is used to provide the service to the customer, if desired.

Rohner is directed towards creating network transport capacity. A capacity planning stage in the process is provided by Rohner. This capacity planning stage is for a network creation process. In other words, Rohner is directed towards determining if a new network model should be created or not. A forecasted network capacity is determined. *See Rohner*, col. 7, lines 25-35. The usage of a network is monitored and it is determined if the network has enough capacity to satisfy forecasted network capacity. *See Rohner*, col. 7, lines 44-57.

In contrast, claim 1 recites receiving a request for spare capacity for a customer requesting a service for the video and data network. Equipment that is used to provide the service to the customer is identified and it is determined if the identified equipment has spare data and video capacity using information for the identified equipment in the network element inventory. Spare video and data capacity for the equipment that may be used to provide the service to the customer, if desired, is then calculated.

Rohner is not directed towards servicing customer requests for service. Rather, Rohner is directed towards monitoring usage of the existing network and determining whether the network has enough capacity to satisfy the forecasted usage. Thus, specific requests from a customer for service is not disclosed or suggested by Rohner. Additionally, Rohner does not disclose or suggest determining equipment that may be used to provide the service to the customer requesting the service and also does not calculate spare video or data capacity for equipment that is used to provide the service to the customer.

Embodiments of the present invention include many advantages. For example, customer inquiries for services may be handled efficiently using embodiments of the present invention. For example, a sales consultant may receive a request for service from a customer and check whether service can be provided to the customer. If spare video and data capacity is found on the network elements that would provide the service to the customer, then the sales representative may indicate to the customer that service can be provided. This is possible because the identified equipment is the equipment that is used to provide the service to the customer and spare video and data capacity is determined for that equipment.

Accordingly, Rohner does not disclose or suggest every element of claim 1.  
Claims 2-16 depend from claim 1 and thus derive patentability at least therefrom.

New Claims 17-36

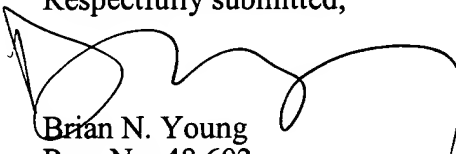
Applicants submit that the set of references do not disclose or suggest every element of new claims 17-36.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Brian N. Young  
Reg. No. 48,602

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
Attachments  
BNY:jtc  
60320099 v1

**Amendments to the Drawings:**

**Discussion of Amendments to the Drawings**

In Fig. 7, Applicants have amended step S700 "request for capacity check received" to read "request for capacity check received, the request including a service area identifier".

In Fig. 8, Applicants have included decisions for steps S806 and S808. Further, step S814 has been amended from "service request is desired, put request on hold" to read "service request is desired, process request"

The attached sheets of drawings include changes to Figs. 7 and 8. These sheets, which include Fig. 7 and Fig. 8 replace the original sheets including Fig. 7 and 8.

Attachment: Replacement Sheets